

APPEAL NO. 032518  
FILED OCTOBER 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 25, 2003. The hearing officer determined that the respondent (self-insured) is relieved from liability under Section 409.002 because of the appellant's (claimant) failure to timely notify her employer pursuant to Section 409.001; the date of injury pursuant to Section 408.007, the date the employee knew or should have known the disease may be related to the employment, is \_\_\_\_\_; and that the claimant did not sustain a compensable repetitive trauma injury because the self-insured is relieved from liability under Section 409.002. The claimant appeals, arguing that the hearing officer erred in his determinations on the compensability and timely notification issues. The carrier files a response urging affirmance.

DECISION

Affirmed.

The claimant was employed as a communications specialist doing considerable data entry activities. The claimant contends that (alleged date of injury), is the date that she knew or should have known that the injury may be related to her employment because that was the first day she made the connection between the pain and her work. The records from (clinic) show that the claimant presented there on \_\_\_\_\_, complaining of "bilateral wrist pain x2 weeks" and that "Pt. does heavy typing at work." The diagnosis was "[carpal tunnel syndrome] CTS, Bilat" and the claimant was given wrist splints that she testified she wore at work for pain. The claimant was subsequently diagnosed with CTS by three different doctors after (alleged date of injury), and was put on restricted duty and then taken off work. The hearing officer found that the date of injury was \_\_\_\_\_. Whether the claimant knew or should have known that her wrist complaints may be related to her work when she went to the clinic in \_\_\_\_\_, or whether she thought the pain was caused by sleeping on her hands was strictly a factual determination for the hearing officer to resolve.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer's determination is supported by the evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Section 409.001(a)(2) provides, in relevant part, that an employee or a person acting on the employee's behalf shall notify the employer of an injury not later than the 30th day after the date on which (in cases of an occupational disease) the employee

knew or should have known that the injury may be related to the employment. Failure to notify an employer as required by Section 409.001(a) relieves the employer and the carrier of liability, unless the employer or carrier has actual knowledge of the injury, good cause exists, or the claim is not contested. Section 409.002. Whether the claimant timely notified her employer of an injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 000150, decided March 10, 2000. The hearing officer found that the claimant first gave the employer notice of the injury on (alleged date of injury). He further found that the claimant did not have good cause for not timely providing notice of her work-related injury. The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

Since we affirmed the determination that the claimant did not provide timely notice of her injury, we also affirm the determinations that the carrier is relieved of liability and that the claimant did not sustain a compensable repetitive injury. Section 409.002.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

MH  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Chris Cowan  
Appeals Judge